

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILLIE LEE BURRELL JR.,

Plaintiff,

vs.

TOM TIERNEY/ SEATTLE HOUSING  
AUTHORITY, et al.,

Defendants.

No. C11-208Z

ORDER

On April 26, 2011, the Court dismissed this lawsuit for lack of subject matter jurisdiction because all of plaintiff's claims arose out of the defendants' alleged breach of an agreement settling prior federal court litigation. Order, docket no. 12; see also Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 376-78 (1994) (holding that the enforcement of a settlement agreement is more than just a continuation or renewal of a dismissed suit, and hence requires its own basis for jurisdiction). Plaintiff has now filed a motion stating entirely new claims that are completely unrelated to the claims in his original complaint. Mot., docket no. 13. Specifically, plaintiff now

1 alleges that defendants violated his rights under the Eighth Amendment to the United  
2 States Constitution by charging him a \$25.00 fee in connection with his application for  
3 public housing. Id. It appears that plaintiff is attempting to plead an independent basis  
4 for subject matter jurisdiction in an effort to prevent the dismissal of his breach of  
5 contract claim. As such, the Court construes plaintiff's motion as a motion for  
6 reconsideration.  
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8       Motions for reconsideration are disfavored. Local Rule CR 7(h)(1). The Court  
9 will ordinarily deny a motion for reconsideration absent a showing of manifest error in  
10 the prior ruling or a showing of new facts or legal authorities which could not have  
11 been brought to its attention with reasonable diligence. Id. The new federal claims  
12 described in plaintiff's motion allegedly arose on December 17, 2010, before plaintiff  
13 brought this lawsuit, and two months before defendants brought their motion to  
14 dismiss. Mot., docket no. 13. Therefore, plaintiff could have included these claims in  
15 his original complaint, or at a minimum, in the exercise of reasonable diligence should  
16 have raised them in his response to the motion to dismiss. As plaintiff failed to  
17 exercise reasonable diligence in bringing these claims to the Court's attention, the  
18 Court DENIES plaintiff's motion for reconsideration, docket no. 13.<sup>1</sup>  
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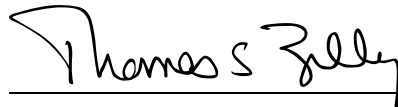
21       The Clerk is directed to send copies of this Minute Order to all counsel of  
22 record and to plaintiff pro se.  
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25 <sup>1</sup> The Court also notes that there is little likelihood that plaintiff would succeed on the  
26 merits of his claim that a \$25.00 housing application fee violates the constitutional  
prohibition on the imposition of cruel and unusual punishments.

1 IT IS SO ORDERED.

2 DATED this 29th day of April, 2011.

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6 Thomas S. Zilly  
7 United States District Judge  
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